

IOWA DEPARTMENT OF NATURAL RESOURCES

ADMINISTRATIVE ORDER

IN THE MATTER OF: THE IOWA CONFERENCE OF THE UNITED CHURCH OF CHRIST AND OUR SACRED SPACE, INC. Wastewater Facility No. 06-86-00-4-02	ADMINISTRATIVE ORDER NO. 2008-WW-28
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TO: Richard Pleva, President The Iowa Conference of the United Church of Christ 600 42nd Street Des Moines, Iowa 50312	Julie Eberbach, Chair Board of Directors Our Sacred Space, Inc. 3005 East Avenue Montour, Iowa 50173
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I. SUMMARY

This administrative order (order) is issued to The Iowa Conference of the United Church of Christ (The Iowa Conference) and Our Sacred Space, Inc. due to failure to timely apply to renew an NPDES permit. The order assesses an administrative penalty in the amount of \$2,000.00.

Any questions regarding this order should be directed to:

Relating to technical requirements:

Angela Fochring-Nkanta
Environmental Specialist, NPDES Section
Iowa Department of Natural Resources
502 East 9th Street
Des Moines, Iowa 50319-0034
Ph: (515) 242-6043

Relating to legal requirements:

Diana Hansen
Attorney at Law
Iowa Department of Natural Resources
502 East 9th Street
Des Moines, Iowa 50319-0034
Ph: (515) 281-6267

Mail payment of penalty to:

Iowa Department of Natural Resources
502 East 9th Street
Des Moines, Iowa 50310-0034

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II. JURISDICTION

This order is issued pursuant to Iowa Code section 455B.175(1), which authorizes the Director to issue any order necessary to secure compliance with or prevent a violation of Iowa Code chapter 455B, Division III, Part 1, and the rules promulgated or permits issued pursuant thereto, and Iowa Code section 455B.109 and 567 Iowa Administrative Code (IAC) chapter 10, which authorize the Director to assess administrative penalties.

III. STATEMENT OF FACTS

1. The Iowa Conference owns the Pilgrim Heights Retreat Center (Pilgrim Heights), located at 3005 E Avenue, Montour, Iowa 50173. The legal description for the location of the waste disposal facility serving Pilgrim Heights is Section 11, T 83 N, R 16W, Tama County, Iowa. Pilgrim Heights is a 126 acre camp and retreat that includes six buildings for meetings and campers (Oak Lodge, Cedar Lodge, Shagbark, Hickory, Autumn House, and Four Seasons), four staff buildings, a recreational lake, a challenge course and woodland trails. Currently, Our Sacred Space, Inc. is operating this facility for The Iowa Conference pursuant to a document titled a transition agreement.

2. The waste disposal system serving Pilgrim Heights consists of a subsurface sand filter and four septic tanks. The waste disposal system is operated pursuant to NPDES Permit No. 06-86-00-4-02, which expires on November 24, 2008. The waste disposal system discharges to an unnamed tributary to the Iowa River.

3. The renewal application for the NPDES permit was required to be filed by 180 days prior to expiration of the NPDES permit or by May 28, 2008. This was a condition of the current NPDES permit and a requirement under Department rules. The Department sent a renewal application form to this facility on January 29, 2008.

On February 12, 2008 the Department made a follow-up phone call but was unable to contact anyone at the facility. The Department did not receive a completed permit renewal application by the May 28, 2008 due date.

On July 9, 2008 the Department sent a notice of violation letter for failure to timely submit the completed renewal application. An incomplete application was received on August 27, 2008. Pages 3, 4 and 5 of the renewal application were incomplete. The renewal application also did not include effluent information that is required to be included with the renewal application as part of the renewal application. The NPDES permit for this facility expires on November 24, 2008. After that date this facility will be operating without an NPDES permit, in violation of the Iowa Code and Department rules.

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IV. CONCLUSIONS OF LAW

1. Iowa Code section 455B.186 prohibits the discharge of pollutants to waters of the state without or contrary to a permit from the Department. Iowa Code section 455B.183 prohibits the construction or operation of waste disposal systems without or contrary to written permits from this Department. Iowa Code section 455B.174 authorizes the Director to issue permits for the operation of a disposal system.

Iowa Code section 455B.171(5) defines "disposal system". Disposal system is defined as "a system for disposing of sewage, industrial waste, or other wastes, or for the use or disposal of sewage sludge." The term "includes sewer systems, treatment works, point sources, dispersal systems, and any systems designed for the usage or disposal of sewage sludge." The subsurface sand filter and septic tanks serving Pilgrim Heights are considered a disposal system under this definition of disposal system.

2. Iowa Code section 455B.173 authorizes and requires the Environmental Protection Commission (Commission) to promulgate rules relating to the operation of waste disposal systems and discharge of pollutants into waters of the state. The Commission has done so at 567 IAC chapters 60- 69. Subrule 62.1(1) prohibits the discharge of pollutants to waters of the state unless authorized by a permit from this Department. Subrule 64.3(1) prohibits the operation of a waste disposal system unless authorized by a permit from this Department and prohibits operation of any waste disposal system contrary to any condition of a permit.

3. Department subrule 567 IAC 64.8(1) states that "[a]ny state NPDES permittee who wishes to continue to discharge after the expiration date of the permit shall file an application for reissuance of the permit at least 180 days prior to the expiration of the permit." The facts stated above demonstrate noncompliance with this provision.

4. The terms of this facility's NPDES permit and the Department subrule required submission of an application for NPDES permit renewal to the Department no later than May 28, 2008. The Department did not receive a completed NPDES permit renewal application for this facility by the May 28, 2008 due date. An incomplete permit renewal application was received by the Department on August 27, 2008. The NPDES permit for this facility expires on November 24, 2008. After that date this facility will be operating without an NPDES permit, in violation of the Iowa Code and Department rules.

V. ORDER

THEREFORE, the Department orders The Iowa Conference and Our Sacred Space, Inc. to comply with the following provisions in order to resolve this matter:

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1. The Iowa Conference and Our Sacred Space, Inc. are required to submit a complete renewal application for an NPDES permit within thirty (30) days of receipt of the order signed by both parties.

2. The Iowa Conference and Our Sacred Space, Inc. are required to pay an administrative penalty of \$2,000.00. This penalty is due within thirty (30) days after the Director's signature to this order.

VI. PENALTY

1. Iowa Code section 455B.191 authorizes the assessment of civil penalties of up to \$5,000.00 per day of violation for the violations involved in this matter. More serious criminal sanctions are also available pursuant to that provision.

2. Iowa Code section 455B.109 authorizes the Commission to establish by rule a schedule of civil penalties up to \$10,000.00 that may be assessed administratively. The Commission has adopted this schedule with procedures and criteria for assessment of penalties in 567 IAC chapter 10. Pursuant to these rules, the Department has determined that the most effective and efficient means of addressing the above-cited violations is the issuance of an order with an administrative penalty of \$2,000.00.

a. Economic Benefit. The owner of this facility saved money by not allocating time and resources to the timely completion and submission of the NPDES permit renewal application. Since a complete application has not been received for this facility, the amount of \$100.00 is assessed for this factor.

b. Gravity of the Violation. Maintaining compliance with water pollution control laws is a major program priority of the federal and state pollution control agencies. Failure to timely submit a renewal application for an NPDES permit is a serious violation. The amount of \$1,000.00 is assessed for this factor.

c. Culpability. The Department sent a renewal application and a notice of violation letter to this facility advising it of its duty to timely submit its renewal application. The amount of \$900.00 is assessed for this factor.

VI. Appeal Rights

Pursuant to Iowa Code section 455B.175(1), and 561 IAC 7.5(1), as adopted by reference by 567 IAC chapter 7, a written notice of appeal to the Commission may be filed within 30 days of receipt of this order. The notice of appeal should be filed with the Director of the Department, and must identify the specific portion or portions of this order being appealed and include a short and plain statement of the reasons for appeal. A

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contested case hearing will then be commenced pursuant to Iowa Code chapter 17A and 561 IAC chapter 7.

VIII. NONCOMPLIANCE

Compliance with Paragraphs 1 and 2 of Section V of this order constitutes full satisfaction of all requirements pertaining to the violations described in this order. Failure to comply with this order may result in the imposition of further administrative penalties or referral to the Attorney General to obtain injunctive relief and civil penalties under Iowa Code section 455B.191.



RICHARD A. LEOPOLD, DIRECTOR
IOWA DEPARTMENT OF NATURAL RESOURCES

Dated this 6 day of
Nov, 2008

The Iowa Conference of the United Church of Christ, Pilgrim Heights Retreat Center & Our Sacred Space, Inc.- NPDES Permit No. 06-86-00-4-02, Angela Foehring-Nkanta- NPDES Section, James Stricker- Field Office No. 5, Diana Hansen-Legal Services, EPA Region VII, I.B.1, I.B.2.d.

Copy to: Ann Graham, Director
Pilgrim Heights Retreat Center
3005 E Avenue
Montour, Iowa 50173